

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON AT SEATTLE

NORTHWEST ADMINISTRATORS, INC.,

Plaintiff,

v.

MONTANA STATE UNIVERSITY, a
Montana public land-grant research
university

Defendant.

NO.

COMPLAINT TO COMPEL AUDIT

I.

Plaintiff, Northwest Administrators, Inc., is an organization incorporated under the laws of the State of Washington, with its principal place of business in King County, and is the authorized administrative agency for and the assignee of the Western Conference of Teamsters Pension Trust Fund (hereinafter "Trust").

II.

The Western Conference of Teamsters Pension Trust Fund is an unincorporated association operating as a Trust Fund pursuant to Section 302 of

COMPLAINT TO COMPEL AUDIT - 1

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1 the Labor Management Relations Act of 1947, as amended, to provide retirement
2 benefits to eligible participants.

3 III.

4 This Court has jurisdiction over the subject matter of this action under
5 Section 502(e)(1) and (f) of the Employee Retirement Income Security Act of 1974
6 ("ERISA"), 29 U.S.C. §1132(e)(1) and (f) and under §301(a) of the Taft-Hartley Act,
7 29 U.S.C. §185(a).

8 IV.

9 Venue is proper in this District under Section 502(e)(2) of ERISA, 29 U.S.C.
10 §1132(e)(2), because the Plaintiff Trust Fund is administered in this District.

11 V.

12 Defendant is a Montana public land-grant research university.

13 VI.

14 Defendant is bound to a collective bargaining agreement with Local 2 of the
15 International Brotherhood of Teamsters (hereinafter "Local"), under which the
16 Defendant was required to promptly and fully report for and pay monthly
17 contributions to the Trust at specific rates for each hour of compensation (including
18 vacations, holidays, overtime and sick leave) said Defendant paid to its employees
19 who were members of the bargaining unit represented by the Local (such
20 bargaining unit members were any of the Defendant's part time or full time
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1 employees who performed any work task covered by the Defendant's labor contract
2 with the Local, whether or not those employees ever actually joined the Local).

3 VII.

4 Defendant accepted the Trust's Agreement & Declaration Agreement ("Trust
5 Agreement") which provides in part:

6 Each Employer shall promptly furnish to the Trustees or
7 their authorized representatives on demand any and all
8 records of his past or present Employees concerning the
9 classification of such Employees, their names, Social
10 Security numbers, amount of wages paid and hours
11 worked or paid for, and any other payroll records and
12 information the Trustees may require in connection with
13 the administration of the Trust Fund, and for no other
14 purpose. The Trustees or their authorized
15 representatives may examine any books and records of
16 each employer, which the Employer is required to furnish
17 to the Trustees on demand whenever such examination
18 is deemed necessary or desirable by the Trustees in the
19 proper administration of the Trust. If it becomes
20 necessary for the trustees to retain legal counsel to
21 compel an Employer to furnish to, or permit the
22 examination of books, or records or information by, the
23 Trustees or their representatives, the Employer shall
24 reimburse the Trust fund for all reasonable attorney's
25 fees and court costs incurred by the Trust Fund in
26 connection therewith, whether or not legal proceedings
were instituted and whether or not such examination
disclosed that the Employer has failed to make
appropriate or timely Employer Contributions to the Trust
Fund.

21 VIII.

22 The Trustees of the Western Conference of Teamsters Pension Trust deem
23 it both necessary and advisable to the proper administration of the Trust that their
24

25 COMPLAINT TO COMPEL AUDIT - 3

26 G:\01-01999\515\Montana University Systems 100774 1-15-6-19\Complaint.doc

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1 authorized representatives examine the Defendant's books and records for the
 2 inclusive period January 1, 2015 through June 30, 2019 to determine if the
 3 Defendant previously reported for and paid to the Trust all of the amounts due for
 4 the Defendant's employment of members of the bargaining unit represented by the
 5 Trust for said period.

6 IX.

7
 8 Despite notification to the Defendant of the Trustees' desire to conduct an
 9 audit for the period January 1, 2015 through June 30, 2019, and demands made
 10 upon the Defendant on the Trust's behalf for access to Defendant's records for an
 11 examination of them for that period, to date the Defendant has failed and refused to
 12 make all of its records available for the thorough examination the Trustees deem
 13 necessary and advisable to the proper administration of the Trust.

14 WHEREFORE, plaintiff, on the Trust's behalf, prays the court as follows:
 15

16 1. That the Court enter an Order Compelling Audit under which
 17 Defendant shall be directed by the Court, within a specified time, to make available
 18 to the authorized representatives of the Trustees of the Trust for the period January
 19 1, 2015 through June 30, 2019:

- 20 A. Individual payroll records for all employees, not just bargaining
- 21 unit employees;
- 22 B. Employee roster listing all employees, not just bargaining unit
- 23 employees;
- 24 C. Signed Temporary Agency Personnel (TAP) Declaration;
- 25 D. Temporary Agency Personnel Invoices (if necessary);
- 26 E. State Employer Security Quarterly Reports; and
- F. Vendor List.

COMPLAINT TO COMPEL AUDIT - 4

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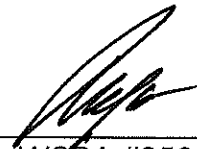
1 2. Afford to the authorized representatives of the Trustees of the Trust
2 both ample time and opportunity to examine all such materials of Defendant at such
3 time and at such place as shall be convenient to the Trustees' authorized
4 representatives.

5 3. For judgment against the Defendant for:

- 6 A. All of the Plaintiff's attorney's fees incurred in gaining auditor
7 access to Defendant's records;
8
9 B. All of the Plaintiff's costs incurred in gaining auditor access to
10 defendant's records, and
11
12 C. For such other and further relief as the Court may deem just
and equitable.

13 DATED this 6th day of December, 2019.

14
15 REID, McCARTHY, BALLEW & LEAHY,
16 L.L.P.

17 
18 _____
19 Russell J. Reid, WSBA #2560
20 Attorney for Plaintiff